



Senate

General Assembly

File No. 567

January Session, 2005

Substitute Senate Bill No. 1194

Senate, April 28, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ARBITRATION IN CERTAIN FAMILY RELATIONS MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-66 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) In any case under this chapter where the parties have submitted
4 to the court an agreement concerning the custody, care, education,
5 visitation, maintenance or support of any of their children or
6 concerning alimony or the disposition of property, the court shall
7 inquire into the financial resources and actual needs of the spouses and
8 their respective fitness to have physical custody of or rights of
9 visitation with any minor child, in order to determine whether the
10 agreement of the spouses is fair and equitable under all the
11 circumstances. If the court finds the agreement fair and equitable, it
12 shall become part of the court file, and if the agreement is in writing, it
13 shall be incorporated by reference into the order or decree of the court.

14 If the court finds the agreement is not fair and equitable, it shall make
15 such orders as to finances and custody as the circumstances require. If
16 the agreement is in writing and provides for the care, education,
17 maintenance or support of a child beyond the age of eighteen, it may
18 also be incorporated or otherwise made a part of any such order and
19 shall be enforceable to the same extent as any other provision of such
20 order or decree, notwithstanding the provisions of section 1-1d.

21 (b) Agreements providing for the care, education, maintenance or
22 support of a child beyond the age of eighteen entered into on or after
23 July 1, 2001, shall be modifiable to the same extent as any other
24 provision of any order or decree in accordance with section 46b-86.

25 (c) The provisions of chapter 909 shall be applicable to any
26 agreement to arbitrate in an action for dissolution of marriage under
27 this chapter, provided (1) an arbitration pursuant to such agreement
28 may proceed only after the court has made a thorough inquiry and is
29 satisfied that (A) each party entered into such agreement voluntarily
30 and without coercion, and (B) such agreement is fair and equitable
31 under the circumstances, and (2) such agreement and an arbitration
32 pursuant to such agreement shall not include issues related to child
33 support and custody. An arbitration award in such action shall be
34 confirmed, modified or vacated in accordance with the provisions of
35 said chapter.

36 Sec. 2. Section 52-408 of the general statutes is repealed and the
37 following is substituted in lieu thereof (*Effective October 1, 2005*):

38 An agreement in any written contract, or in a separate writing
39 executed by the parties to any written contract, to settle by arbitration
40 any controversy thereafter arising out of such contract, or out of the
41 failure or refusal to perform the whole or any part thereof, or a written
42 provision in the articles of association or bylaws of an association or
43 corporation of which both parties are members to arbitrate any
44 controversy which may arise between them in the future, or an
45 agreement in writing between two or more persons to submit to
46 arbitration any controversy existing between them at the time of the

47 agreement to submit, or an agreement in writing between the parties to
48 a marriage to submit to arbitration any controversy between them with
49 respect to the dissolution of their marriage, except issues related to
50 child support and custody, shall be valid, irrevocable and enforceable,
51 except when there exists sufficient cause at law or in equity for the
52 avoidance of written contracts generally.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	46b-66
Sec. 2	October 1, 2005	52-408

Section 1	October 1, 2005	46b-66
Sec. 2	October 1, 2005	52-408

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Savings	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill permits parties to a dissolution of marriage proceeding to agree to arbitrate the matter except for issues related to child support and custody. Providing another alternative dispute mechanism for certain issues in marriage dissolution proceedings could decrease the workload of the Judicial Department's Family Division and thereby speed the disposition of cases. Any efficiencies gained under the bill are not expected to yield a reduction in caseloads sufficient to substantially decrease staffing or expenses. As a consequence, any budgetary savings are anticipated to be minimal.

OLR Bill Analysis

sSB 1194

***AN ACT CONCERNING ARBITRATION IN CERTAIN FAMILY
RELATIONS MATTERS***

SUMMARY:

This bill permits divorcing couples to submit disputes, except those involving child support or custody, to binding arbitration. It requires advance approval by the court, which must determine that (1) each party voluntarily agreed to arbitrate and (2) the terms of their written arbitration agreement are fair and equitable under the circumstances.

It subjects marital arbitrations to the same rules, standards, and limited court review as currently apply to other arbitrations.

EFFECTIVE DATE: October 1, 2005

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0